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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 21st May 2025

**S.R.O. No. 305/2025**—In pursuance of Section 17(1) of the Industrial Disputes Act, 1947 (14 of 1947) the award dated the 21st March 2025 passed in the I.D. Case No. 09 of 2024 [under Section 2-A(2)] passed by the Presiding Officer, Labour Court, Bhubaneswar on the industrial dispute between 1. Balanga Service Co-operative Society Ltd., represented through its Chief Executive, At/P.O./P.S. Balanga, PIN-752105, 2. Administrator, Balanga Service Co-operative Society Ltd., At/P.O./P.S. Balanga, PIN-752105 and Shri Bipina Bihari Khatoi (Age-60 Yrs.), S/o Arjuna Khatoi, At Bayabara, P.O. Nua Gopalpur, P.S. Balanga, Dist. Puri is hereby published as in the schedule below :—

## SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 09 of 2024

Dated the 21st March 2025

*Present :*

Smt. Meenakshee Priyadarsinee,  
Presiding Officer, Labour Court,  
Bhubaneswar.

*Between :*

1. Balanga Service Co-operative Society Ltd., Represented through its Chief Executive, At/P.O./P.S. Balanga, PIN-752105.	.. First Party—Managements
2. Administrator, Balanga Service Co-operative Society Ltd., At/P.O./P.S. Balanga, PIN-752105.	

And

Shri Bipina Bihari Khato, aged about 60 Yrs., . . . Second Party—Workman.  
S/o Arjuna Khato,  
At Bayabara, P.O. Nua Gopalpur,  
P.S. Balanga, Dist. Puri.

*Appearances :*

None	. . . For the First Party—Managements
Shri Bipina Bihari Khato	. . . The Second Party—himself

AWARD

This is an application under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') preferred by the second party challenging the action of the first party managements in dismissing him from service with effect from 3rd January 2024 as illegal and unjustified with a prayer for his reinstatement in service with full back wages coupled with other consequential service benefits.

2. Shorn of unnecessary details, the case of the second party is that:—while working as In-charge Secretary of Balanga Service Co-operative Society Ltd. the second party was placed under suspension vide Order No. 16, dated the 4th December 2019 of the management No. 2. Thereafter, he was not only charge sheeted vide Memorandum No. 78, dated the 8th March 2021 by the management No. 2 but also dismissed from his service with effect from the 3rd January 2024 although his date of superannuation was the 31st January 2024 followed by an enquiry. But, as per the averments of the statement of claim the action of the management No. 2 in issuing charge sheet against the second party and ultimately, dismissing him with effect from the 2nd September 2011 is illegal and unjustified. Besides that, the second party challenges the legality and propriety of the enquiry which preceded the order of dismissal. According to the second party, the so called enquiry is unfair and improper due to the following amongst other reasons :—

- (a) The alleged charges are vague and baseless as because he has never committed any misappropriation or misconduct during his service tenure as alleged;
- (b) The Enquiry Report of the Enquiry Officer (EO) was contrary to the Rule 15 of OCS (CCA) Rules, 1962;
- (c) The EO did not give reasonable opportunity to him to defend the alleged charges;
- (d) No document was supplied to him by the EO despite his written application;
- (e) The Enquiry Report is not correct;
- (f) The ARCS, Puri Circle had appointed the EO, but in fact he had no power to do so.
- (g) The management No. 2 had completed the disciplinary proceeding, but without any authority etc..

The statement of claim of the second party clearly speaks that consequent upon his illegal dismissal, the second party had filed a complaint petition before DLO, Puri stating his illegal dismissal from service by the managements. But, as the dispute could not be resolved despite lapse of more than 45 days of filing of complaint before concerned DLO, the second party preferred the present case before this Court resorting to the provisions of Section 2-A (2) of the Act for adjudication.

3. As the managements neither filed their WS, if any nor participated during hearing of the case despite notices of this Court, they were set *ex parte* vide order dated the 27th February 2025.

4. During *ex parte* hearing the second party not only examined himself as WW No. 1 but also placed reliance on a number of documents which have been marked as Exts. 1 to 15 in order to substantiate his case.

5. As stated above the second party has examined himself as WW No. 1 with reference to his affidavit evidence in which the second party with vehemence has assailed his dismissal from service by the managements while working as In-charge Secretary of Balanga Service Co-operative Society Ltd.. In order to prove his employment with the managements the second party has focused on Exts. 2 and 3 which are the photocopies of his appointment orders dated the 29th January 1993 and the 30th March 1994. A perusal of Ext. 2 & Ext. 3 clearly show that vide Ext. 2 the second party was initially appointed as a 'Clerk' as per the order of the management of the Balanga Service Co-op. Society Ltd. and subsequently his service was approved by the order dated the 30th March 1994 of Assistant Registrar, Co-operative Societies, Puri Circle, Puri. So, it is held that the second party was an employee of the managements.

On a common reading of the claim advanced by the second party in his claim statement as well as in his evidence, it is found that the second party was dismissed from his service followed by a domestic enquiry conducted by the managements on the allegation of committing certain misconducts by him. So, this being a dispute related to the dismissal of the second party preceded by a domestic enquiry this Court has to see as to whether the enquiry conducted by the managements against the second party is just and fair when it is the consistent case of the second party that the domestic enquiry conducted against him by the managements is not valid while taking into consideration the aforesaid grounds raised by him in his claim statement. On perusal of Ext. 4, it transpires that by virtue of such document the second party was placed under suspension with effect from the 4th December 2019 basing upon his negligence to render services to the member of the Society and disobedience of order of Administrator. The second party, thereafter charge sheeted vide Ext. 6. A perusal of materials available on case record would show that the second party was dismissed from service vide Ext. 13 basing upon the Enquiry Report submitted by the EO on being appointed by ARCS, Puri Circle, Puri.

As discussed above, when the second party has thoroughly challenged the so-called enquiry is unfair and improper on various grounds the managements should have been resisted the same by stating that before imposing punishment on the second party followed by a domestic enquiry, due opportunity was given to him adhering to the principles of natural justice and the enquiry was conducted against the second party in a fair and proper manner after complying all the procedures required under law by producing cogent evidence. But, it would not be out of place to mention here that despite notices of this Court the managements did not choose to contest the claim of the second party by filing written statement coupled with documents and accordingly, they were set *ex parte* in this case. Be that as it may, no document is brought to my notice to show that the enquiry conducted against the second party which preceded his dismissal has been held as per the principles laid down by the Hon'ble Apex Court in the case of *sur enamel and stamping works Ltd vs. workmen* [AIR 1963 SC 1914 = 1964 (3) SCR 616] where the Hon'ble Court laid down the following principles as principles of Natural Justice :—

- (i) The employee proceeded against has been informed clearly of the charge levelled against him.
- (ii) The witnesses are examined ordinarily in the presence of the employee in respect of the charges.

- (iii) The employee is given a fair opportunity to cross-examine the witnesses
- (iv) He will be given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter and
- (v) The enquiry officer records his findings with reasons for the same in his report.

There is no material before this Court to infer that the employee (the second party) proceeded against has been informed clearly of the charges levelled against him and he was given a fair opportunity to defend the allegations and the punishment of dismissal imposed on the second party was as per the Service Rules of the concerned Society. This Court accordingly held that the dismissal of the second party preceded by so called enquiry is neither legal nor justified.

On the face of above, it is next to see as to what relief the second party is entitled to in view of his illegal dismissal from service. As per the second party he has already crossed the age of superannuation. Taking theaforesaid fact into consideration, the relief of reinstatement and back wages, in my considered view, would not be appropriated to be awarded in favour of the second party and instead some compensation would be the just and proper relief in the present proceeding. As per the second party he was dismissed from service just 28 days before his date of superannuation if he was not dismissed he would only work for a brief period i.e. 28 days. So, the managements are directed to pay a *lump sum* compensation of Rs. 1,00,000 (Rupees One Lakh) only to the second party for his illegal dismissal within a period of two months of the date of publication of the Award, failing which the amount of compensation awarded in favour of the second party would carry a simple interest of 6% per annum till it is paid to him.

The application is disposed of accordingly.

Dictated and corrected by me.

MEENAKSHEE PRIYADARSINEE  
21-03-2025  
Presiding Officer  
Labour Court, Bhubaneswar

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21-03-2025  
Presiding Officer  
Labour Court, Bhubaneswar

[No. 4972—LESI-IR-ID-0030/2025-LESI]

By order of the Governor  
MADHUMITANAYAK  
Special Secretary to Government